

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature First Regular Session - 2011

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 46

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO ACUPUNCTURE; AMENDING SECTION 54-4703, IDAHO CODE, TO PROVIDE THAT PERSONS HOLDING AN ACUPUNCTURE TRAINEE PERMIT MAY PRACTICE ACUPUNCTURE ON A SUPERVISED, LIMITED BASIS; AMENDING SECTION 54-4705, IDAHO CODE, TO REMOVE REFERENCE TO A TECHNICIAN CERTIFICATE, TO PROVIDE FOR A TRAINEE PERMIT AND TO PROVIDE THE BOARD THE AUTHORITY TO ADOPT RULES REQUIRING CONTINUING EDUCATION AS A CONDITION OF CONTINUED CERTIFICATION; AMENDING SECTION 54-4707, IDAHO CODE, TO PROVIDE ADDITIONAL REQUIREMENTS FOR CERTIFICATION; AMENDING SECTION 54-4708, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO AN ACUPUNCTURE TECHNICIAN CERTIFICATE AND TO PROVIDE PROVISIONS FOR AN ACUPUNCTURE TRAINEE PERMIT; AMENDING CHAPTER 47, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-4708A, IDAHO CODE, TO PROVIDE FOR THE RETENTION AND RENEWAL OF CERTAIN ACUPUNCTURE TECHNICIAN CERTIFICATES AND TO PROVIDE THAT NO NEW TECHNICIAN CERTIFICATES SHALL BE ISSUED ON AND AFTER JULY 1, 2011; AMENDING SECTION 54-4710, IDAHO CODE, TO REVISE PROVISIONS RELATING TO FEES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-4711, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE SUSPENSION AND REVOCATION OF A LICENSE, CERTIFICATION OR PERMIT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-4712, IDAHO CODE, TO PROVIDE THAT A PERSON GRANTED AN ACUPUNCTURE TRAINEE PERMIT MAY USE CERTAIN TITLES; AND AMENDING SECTION 54-4713, IDAHO CODE, TO REVISE PROVISIONS RELATING TO AN UNLAWFUL METHOD, ACT OR PRACTICE AND TO MAKE A TECHNICAL CORRECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-4703, Idaho Code, be, and the same is hereby amended to read as follows:

54-4703. LICENSE REQUIRED. (1) From and after the 1st day of July, 1999, it is unlawful for any person to practice acupuncture in this state without, at such time being licensed or certified pursuant to this chapter; provided however, the provisions of this chapter shall not apply to persons licensed pursuant to chapter 18, title 54, Idaho Code, but such persons may seek licensure or certification pursuant to this chapter on a voluntary basis. Persons holding an acupuncture trainee permit pursuant to this chapter may practice acupuncture on a supervised, limited basis as prescribed by this chapter, the board's rules and the permit.

(2) No person shall use any title, designation, words, letters, abbreviations, or sign, card or device which indicates to the public that such person may practice acupuncture in any form or has been issued a license or been certified pursuant to this chapter unless the person is so licensed or certified, has been issued such license or certification, and the license or certification is in good standing pursuant to rules of the board.

SECTION 2. That Section 54-4705, Idaho Code, be, and the same is hereby amended to read as follows:

54-4705. BOARD OF ACUPUNCTURE -- POWERS AND DUTIES -- FUNDS. (1) The board shall have the authority to:

(a) Determine the qualifications of persons applying for licensure, certification and acupuncture ~~technician certificates~~ trainee permits pursuant to this chapter and define, by rule, the appropriate scope of acupuncture services that may be rendered to the public in this state;

(b) Hire or appoint employees, including an executive director, investigators, attorneys, consultants and independent hearing examiners;

(c) Establish, pursuant to the administrative procedure act, such rules as are necessary for the administration of this chapter, including standards for professional conduct that reflect current practice standards and promote inclusion of innovations and advances in acupuncture;

(d) Conduct investigations and examinations and hold hearings;

(e) Collect fees and other funds as prescribed by this chapter;

(f) Contract, sue and be sued, and pursue other matters lawful in this state;

(g) Provide such other services and perform such other functions as are necessary and desirable to fulfill its purposes;

(h) Adopt rules requiring continuing education as a condition of continued licensure or certification.

(2) All fees received under the provisions of this chapter shall be paid to the bureau of occupational licenses and deposited in the state treasury to the credit of the occupational licenses fund and all costs and expenses incurred under the provisions of this chapter shall be a charge against and paid from said fund.

SECTION 3. That Section 54-4707, Idaho Code, be, and the same is hereby amended to read as follows:

54-4707. REQUIREMENTS FOR CERTIFICATION. A person applying for a certification shall, in addition to paying all required fees, submit a written application provided by the board showing that such person has successfully passed an examination or other demonstration of proficiency as may be uniformly required by the board and:

(1) Has successfully completed the requirements for full membership in the American academy of medical acupuncture; or

(2) Has met each of the following education and experience requirements:

(a) Possesses from an accredited college or university a doctoral degree in chiropractic, dentistry, podiatric medicine, or naturopathic medicine;

(b) Has successfully completed an approved program consisting of a minimum of one hundred (100) hours of on-site didactic coursework in acupuncture taught by an NCCAOM certified acupuncturist who has been practicing acupuncture for at least five (5) years and is currently licensed, two hundred (200) hours of practice as a certified technician

or as an acupuncture trainee over a one (1) year period and twenty-five (25) case studies; and

(c) Has successfully passed a blood-borne pathogen course and comprehensive examination concerning the practice of acupuncture approved by the board that incorporates clean needle techniques and OSHA procedures and requirements.

SECTION 4. That Section 54-4708, Idaho Code, be, and the same is hereby amended to read as follows:

54-4708. ~~ACUPUNCTURE TECHNICIAN CERTIFICATE~~ TRAINEE PERMIT. (1) A person seeking the experience needed to obtain licensure or certification pursuant to this chapter may apply for an acupuncture ~~technician certificate by, in addition to paying trainee permit.~~ Such person shall pay all required fees, submitting a written application provided by the board and showing to the satisfaction of the board that such person ~~meets the following requirements:~~ is qualified and actively pursuing an acupuncture license or certification.

~~(a) Completion of the requirements for clinical technician certificate by the international academy of medical acupuncture, inc., or such other comparable requirements as are approved by the board; and~~

~~(b) Passed a clean needle technique course that has been approved by the board; and~~

~~(c) Passed an examination or other demonstration of proficiency as may be uniformly required for other similarly qualified applicants for an acupuncture technician certificate.~~

(2) In approving an acupuncture ~~technician certificate~~ trainee permit the board shall consider the scope and extent of the applicant's academic and other training and experience in health care to date and may, for each individual acupuncture ~~technician~~ trainee:

~~(a) Require the direct and immediate supervision such supervision, as the board may deem appropriate, by a person licensed or certified pursuant to this chapter or by a health care practitioner licensed or certified in Idaho or by a health care practitioner otherwise exempt from licensure under this chapter;~~

~~(b) Restrict the practice of acupuncture for the acupuncture technician trainee to specified therapies or treatments.~~

(3) A person's acupuncture trainee permit expires one (1) year from the date of issuance. However, the board may renew the permit for up to one (1) year if, before the permit expires, the person asks the board for an extension and establishes to the board's satisfaction that good cause exists for the board to renew the permit. The renewal of any acupuncture trainee permit may be upon such conditions as the board may require. The board may not renew a permit more than once and the board may not issue more than one (1) permit to any person.

SECTION 5. That Chapter 47, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-4708A, Idaho Code, and to read as follows:

54-4708A. ACUPUNCTURE TECHNICIAN. Individuals who have been granted an acupuncture technician certificate before July 1, 2011, shall be entitled to retain and renew such certificate under the renewal terms as provided in section 54-4710, Idaho Code, and the board's rules, but no new technician certificates shall be issued on and after July 1, 2011.

SECTION 6. That Section 54-4710, Idaho Code, be, and the same is hereby amended to read as follows:

54-4710. EXPIRATION AND RENEWAL -- REINSTATEMENT. (1) All licenses and certifications issued under the provisions of this chapter shall be subject to annual renewal and shall expire unless renewed in the manner prescribed by the board regarding applications for renewal, continuing education, and fees. License renewal and reinstatement shall be in accordance with section 67-2614, Idaho Code.

(2) The board shall establish the following fees relating to licensing, which fees shall be established in an amount that is sufficient to defray all costs necessary for the administration of this chapter:

- (a) Initial license;
- (b) Renewal of license fee;
- (c) Initial fee for certification;
- (d) Initial acupuncture ~~technician certificate~~ trainee permit;
- (e) Renewal acupuncture technician certificate or acupuncture trainee permit;
- (f) Inactive license and certification fees;
- (g) Late renewal fees.

SECTION 7. That Section 54-4711, Idaho Code, be, and the same is hereby amended to read as follows:

54-4711. SUSPENSION AND REVOCATION. To protect the health, safety and welfare of the public, the board, in accordance with the requirements of chapter 52, title 67, Idaho Code, may refuse to issue ~~a license or certification, or may~~ refuse to renew a license, or certification or permit, or may suspend or revoke a license, ~~or certification or permit~~, under such conditions as the board may ~~determine~~ require, if the applicant or holder of the license, ~~or certification or permit~~ has:

(1) ~~Has been~~ convicted of a felonious act, or crime involving moral turpitude;

(2) Obtained or attempted to obtain the issuance or renewal of a license, certification or permit pursuant to this chapter by means of fraud, misrepresentation or concealment of material facts;

(3) ~~Endangered the health of any person engaging~~ Engaged in the practice of acupuncture in a manner which does not meet the generally accepted standards for the practice of acupuncture within the state of Idaho;

(4) ~~Has failed~~ to maintain the confidentiality of records or other information pertaining to an identifiable client, except as required or authorized by law;

(5) Engaged in any conduct that constitutes an abuse or exploitation of a client arising out of the trust and confidence placed in the acupuncturist by the client; ~~or~~

1 (6) ~~Has e~~Engaged in conduct that violates the provisions of this chap-
 2 ter, ~~or the rules of the board or the terms of any permit issued by the board;~~
 3 or
 4 (7) Failed to comply with a board order entered in a disciplinary mat-
 5 ter.

6 SECTION 8. That Section 54-4712, Idaho Code, be, and the same is hereby
 7 amended to read as follows:

8 54-4712. TITLES. Persons licensed pursuant to this chapter may use the
 9 title "licensed acupuncturist." Persons certified or granted an acupuncture
 10 technician certificate, or an acupuncture trainee permit pursuant to this
 11 chapter, may use the title "certified acupuncturist," ~~or~~ "acupuncture tech-
 12 nician" or "acupuncture trainee," respectively, but may not use the title
 13 "licensed acupuncturist" or "doctor," or any abbreviation thereof, unless
 14 the acupuncturist is otherwise authorized to use such title. No person au-
 15 thorized to practice acupuncture pursuant to this chapter may hold himself
 16 out in any way as a medical physician, doctor of osteopathy, chiropractor,
 17 physical therapist or other health care professional unless the person is
 18 properly authorized for such practice pursuant to law.

19 SECTION 9. That Section 54-4713, Idaho Code, be, and the same is hereby
 20 amended to read as follows:

21 54-4713. PENALTIES. (1) A person who violates any provision of this
 22 chapter shall, upon conviction, be guilty of a misdemeanor.

23 (2) The board may seek injunction against any person who practices
 24 acupuncture in violation of this chapter and may, in the event a permanent
 25 injunction is entered against such person or plea or verdict of guilty is
 26 entered in any criminal matter, impose a civil penalty in the amount of all
 27 costs and fees incurred by the board in prosecuting the matter.

28 (3) The representation to another person that a person ~~is licensed or~~
 29 holds a license, certification or permit pursuant to this chapter, when such
 30 representation is untrue, constitutes the using of a method, act, or prac-
 31 tice which is declared to be unlawful under the provisions of chapter 6, ti-
 32 tle 48, Idaho Code.